

Remarks

Reconsideration and reexamination of the above-identified patent application, as amended, are respectfully requested. Claims 1, 4-8, 11-12, 15, 18-22, and 25 are pending in this application upon entry of this Amendment. In this Amendment, the Applicant has amended claims 1, 4, 11, 15, 18, and 25; and cancelled claims 2-3, 9-10, 13-14, 16-17, 23-24, and 26-30. No claims have been added in this Amendment. Of the pending claims, claims 1 and 15 are the only independent claims.

Specification Objections

In the Office Action mailed September 16, 2004, the Examiner objected to the disclosure because the serial numbers of co-pending applications (09/851,235; 09/851,285; and 09/850,910) should be listed. The Applicant has amended the specification accordingly.

Double Patenting

The Examiner provisionally rejected claims 1-30 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 8-12 of co-pending application serial no. 09/850,910. In response, the Applicant has filed herewith a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) to overcome the provisional rejection of the claims. Accordingly, the Applicant respectfully requests reconsideration and withdrawal of the rejection to the claims under the judicially created doctrine of obviousness-type double patenting.

Claim Rejections - 35 U.S.C. § 102

The Examiner rejected claims 1, 9-10, 12, 15, and 23-24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,711,135 issued to Dziekan et al. ("Dziekan").

The Applicant has amended independent claim 1 to include limitations of its cancelled dependent claims 2-3, 9-10, and 13-14. Claims 2-3 and 13-14 were rejected under 35 U.S.C. § 103(a) as indicated below. The Applicant has amended independent claim 15 to include limitations of its cancelled dependent claims 16-17, 23-24, and 26-27. Claims 16-17 and 26-27 were rejected under 35 U.S.C. § 103(a) as indicated below.

Thus, amended independent claims 1 and 15 overcome the rejection under 35 U.S.C. § 102(e). Claims 9-10 and 23-24 have been cancelled. Claim 12 depends from amended independent claim 1 and includes the limitations therein. Therefore, the Applicant respectfully requests reconsideration and withdrawal of the rejection to the claims under 35 U.S.C. § 102(e).

Claim Rejections - 35 U.S.C. §103

The Examiner rejected claims 2-4, 11, 13-14, 16-18, and 25-28 under 35 U.S.C. § 103(a) as being unpatentable over Dziekan in view of U.S. Patent No. 5,559,955 issued to Dev et al. ("Dev"). As indicated above, the Applicant has amended independent claim 1 to include limitations of its cancelled dependent claims 2-3, 9-10, and 13-14; and has amended independent claim 15 to include limitations of its cancelled dependent claims 16-17, 23-24, and 26-27.

1. The Claimed Invention

The claimed invention as set forth in amended independent claims 1 and 15 is generally directed to a broadband network. As set forth in representative amended independent claim 1, the broadband network includes a hybrid fiber coax (HFC) network having network elements (NE) operable for communicating telephony, data, and video signals with customer-premises equipment (CPE) of subscribers. The NE include a host digital terminal (HDT) for communicating the telephony signals, a cable modem termination system (CMTS) for communicating the data signals, and video equipment for communicating the video signals.

The NE further include a fiber optics node connected at one end to the HDT, the CMTS, and the video equipment by a fiber optics network and connected at the other end to the CPE by coax.

The broadband network further includes an HFC network manager for monitoring status of the NE and the CPE, for controlling configuration of the NE and the CPE, and for monitoring the configuration of the NE and the CPE. A service, design, and inventory (SDI) database is operable with the HFC network manager for storing data indicative of the configuration of the NE and the CPE, for storing data indicative of assigned capacity of the NE, and for storing data indicative of physical and logical connections between the HFC network and the CPE.

An online provisioning application link (OPAL) is operable with the HFC network manager and the database for automatically provisioning NE with the CPE based on the assigned capacity of the NE such that the NE and the CPE are logically connected in order to enable communication of telephony, data, and video signals between the HFC network and the CPE.

2. The Claimed Invention Compared to Dziekan and Dev

The claimed invention as recited in amended independent claims 1 and 15 differs from any combination of Dziekan and Dev in that the claimed invention includes: i) a service, design, and inventory (SDI) database operable with a HFC network manager for storing data indicative of the configuration of the NE and the CPE, assigned capacity of the NE, and physical and logical connections between the HFC network and the CPE; and ii) an online provisioning application link (OPAL) operable with the HFC network manager and the database for automatically provisioning NE with the CPE based on the assigned capacity of the NE such that the NE and the CPE are logically connected in order to enable communication of telephony, data, and video signals between the HFC network and the CPE.

In paragraph 24 of the Office Action the Examiner cited col. 4, lines 11-33 and col. 5, lines 6-15 of Dziekan and cited Fig. 1 and col. 5, lines 12-46 of Dev as being relevant to the latter claim limitation. The col. 4 passage of Dziekan generally teaches that “service manager 120 maps specific services and service providers to specific network elements, where the specific elements may either be owned or controlled by the related service provider and through which the associated service is provided”; and that the service manager allows the service providers to provide services to CPE. The col. 5 passage of Dziekan generally teaches that “A direct network element access element 180 is included in HFC access network manager 100 to control the interaction between the service providers and associated network elements, according to pre-defined contractual arrangements” and further teaches that a service provider can “use Web-based or SNMP V. 3-based management tools to access various ones of its owned/controlled network elements”. The col. 5 passage of Dev generally teaches that the network management system “services user requests entered by the user at user interface 10 and provides network information such as alarms and events to user interface 10.”

As such, in contrast to the claimed invention, neither Dziekan nor Dev teach or suggest using an online provisioning application link (OPAL) operable to automatically provision NE with the CPE based on the assigned capacity of the NE.

Accordingly, the Applicant believes that amended independent claims 1 and 15 are patentable under 35 U.S.C. § 103(a) over Dziekan and Dev. Claims 4, 11, 18, and 25 depend from one of amended independent claims 1 and 15 and include the limitations therein. Therefore, the Applicant respectfully requests that the Examiner finds that claims 1, 4, 11, 15, 18, and 25, as amended, are patentable under 35 U.S.C. § 103(a) over Dziekan and Dev.

The Examiner rejected claims 5-8, 19-22, and 29-30 under 35 U.S.C. § 103(a) as being unpatentable over Dziekan in view of Dev, and further in view of U.S. Patent No. 4,972,453 issued to Daniel (“Daniel”). Claims 5-8 depend from amended independent claim 1 and include the limitations therein; claims 19-22 depend from amended independent claim 15 and include the limitations therein; and claims 29-30 depend from amended independent

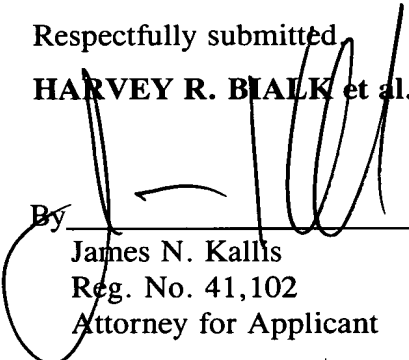
claim 28 and include the limitations therein. Thus, the Applicant respectfully requests reconsideration and withdrawal of the rejection to claims 5-8, 19-22, and 29-30 under 35 U.S.C. § 103(a).

CONCLUSION

In summary, claims 1, 4-8, 11-12, 15, 18-22, and 25, as amended, meet the substantive requirements for patentability. The case is in appropriate condition for allowance. Accordingly, such action is respectfully requested.

If a telephone or video conference would expedite allowance or resolve any further questions, such a conference is invited at the convenience of the Examiner.

Respectfully submitted,
HARVEY R. BIALK et al.

By 
James N. Kallis
Reg. No. 41,102
Attorney for Applicant

Date: January 18, 2005

BROOKS KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075-1238
Phone: 248-358-4400
Fax: 248-358-3351